

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

FEDERATED RURAL ELECTRIC  
INSURANCE EXCHANGE and TIG  
INSURANCE COMPANY,

Plaintiffs,

v.

PUBLIC UTILITY DISTRICT NO. 1 OF  
COWLITZ COUNTY, WASHINGTON, a  
Washington municipal corporation,

Defendant.

Case No. C04-5052 RBL

ORDER GRANTING INSURERS'  
MOTION TO STAY ACTION AND  
ENFORCE CONTRACTUAL  
APPRAISAL PROVISION

THIS MATTER comes before the Court on plaintiff-insurers' Motion to stay this action and enforce contractual appraisal provisions [Dkt. #199]. The Court's July 2004 Order denying Federated/TIG's request for appraisal made clear that coverage issues were not well-suited for resolution in an appraisal process. Now, more than two years later, this Court has entered three Orders in which it has resolved all coverage issues which can be settled based on the information provided to the Court. Increasingly, the questions presented to this Court will deal with calculations and computations which are ideally suited for resolution through an appraisal process. Such questions, including the reasonableness and relatedness of repair costs, are particularly difficult for jurors to resolve on a line-item by line-item basis.

This Court does not believe that the initiation of a declaratory judgment action to adjudicate legitimate coverage questions constitutes a waiver of the insurers' contractual right to compel appraisal.

1 Nor does the Court agree that seeking Court resolution of coverage issues necessarily constitutes breach of  
2 the insurance contract or that the insurers are estopped to assert their right to seek appraisal. Accordingly,

3 **IT IS HEREBY ORDERED** that insurers' motion [Dkt. #199] is **GRANTED**, further action on  
4 this matter in this Court is stayed, and the parties will resolve, by appraisal, issues regarding the amount of  
5 losses covered by Insurers, as provided in the applicable insurance contracts.

6 DATED this 19<sup>th</sup> day of September, 2006.

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9 RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE